



# OLR RESEARCH REPORT

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## **HOUSING UNITS BUILT UNDER THE AFFORDABLE HOUSING APPEALS PROCEDURE**

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You asked for an update of the portion of OLR Report [2006-R-0638](#) that discusses the number of affordable housing units created since the affordable housing land use appeals procedure (“the procedure”) went into effect in 1990.

### **SUMMARY**

No entity in the state tracks applications for developments pursuant to the affordable housing land use appeals procedure (CGS § [8-30g](#)) and the information on the disposition of such applications is limited. Although we recently compiled a list of cases from 1992 to present where a local zoning or planning commission decision was appealed under the procedure (see OLR Report [2013-R-0033](#)), we have limited data for cases where the municipality (1) approved an application that was not appealed by abutters or other neighbors or (2) denied an application and the developer chose not to appeal. However, it appears that at least 1,400 affordable units were approved after a CGS § [8-30g](#) appeal. Additionally, there are at least 8,977 deed restricted units in the state and about 24,000 assisted units were built since 1992.

## **THE PROCEDURE**

The procedure is a set of rules that allows developers to appeal to Superior Court local zoning and planning commission decisions denying affordable housing developments or approving them with costly conditions. A municipality is subject to the procedure if less than 10% of its housing stock is affordable. Units that count toward the threshold are those that are:

1. assisted housing,
2. currently financed by Connecticut Housing Finance Authority mortgages,
3. subject to deeds and conditions restricting the sale or rental to low- and moderate-income households (see “set-aside development” definition below), or
4. mobile homes or accessory apartments subject to similar deed restrictions.

“Assisted housing” means housing that receives government assistance to construct or rehabilitate low- and moderate-income housing, or, housing occupied by individuals receiving rental assistance (i.e., Section 8). A “set-aside development” is a project where at least 30% of the dwelling units are deed restricted as affordable for at least 40 years after initial occupancy.

## **UNITS BUILT UNDER THE PROCEDURE**

It is difficult to determine the exact number of units added to the state’s housing stock under the procedure as no state agency keeps statistics on the number of units built following a successful CGS § [8-30g](#) appeal. Furthermore, developers sometimes use the possibility of an appeal under the procedure as leverage when negotiating a project with a local planning or zoning commission. Although some municipalities have approved projects because they want to avoid the court costs associated with a CGS § [8-30g](#) appeal, there is no way of determining how many units have been approved under such circumstances. (See OLR Report [2013-R-0033](#) for more information on uncontested cases).

However, some information is available on the number of (1) affordable units that were approved as a direct result of an appeal under the procedure, (2) units with deed restrictions, and (3) units built since 1992 with government assistance. (The last two types of units satisfy CGS § [8-30g](#) standards.)

### ***Units Approved When Local Decision Overturned***

According to a compilation of CGS § [8-30g](#) cases that Rafael Podolsky of the Legal Assistance Resource Center of Connecticut, Inc. provided, as of 2011, there were at least 27 cases in which a local planning or zoning commission was overturned. As a result of these cases, at least 1,400 affordable units were approved (though we have not been able to determine how many of these projects came to fruition).

### ***Deed Restricted and Government Assisted Units***

As of 2011, the latest year for which Department of Economic and Community Development numbers are available, there are 8,977 deed restricted units in the state. Of these, 5,481 are in municipalities where less than 10% of the housing stock is affordable and 3,496 are in municipalities that have met the 10% threshold. Additionally, attorney Timothy Hollister, a partner with the Hartford law firm Shipman and Goodwin, LLP, estimates that 24,000 assisted housing units have been built since 1992, though it is unclear how many of these are the result of a successful CGS § [8-30g](#) appeal.

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